

§ 1235.6, Nt.

sections 212(a)(1) and 232(b) of the Act shall be advised by the examining immigration officer that he or she may appeal to a board of medical examiners of the United States Public Health Service pursuant to section 232 of the Act. If such appeal is taken, the district director shall arrange for the convening of the medical board.

[62 FR 10358, Mar. 6, 1997, as amended at 64 FR 8494, Feb. 19, 1999; 74 FR 55744, Oct. 28, 2009; 85 FR 23904, Apr. 30, 2020]

EFFECTIVE DATE NOTES: 1. At 85 FR 80400, Dec. 11, 2020, §1235.6 was amended by:

- a. Removing paragraphs (a)(1)(ii) and (iii);
- b. Redesignating paragraph (a)(1)(iv) as paragraph (a)(1)(ii) and revising it;
- c. Revising paragraphs (a)(2)(ii) and (iii); and
- d. Adding paragraph (c).

The amendments are effective Jan. 11, 2021. For the convenience of the user, the added and revised text is set forth as follows:

§ 1235.6 Referral to immigration judge.

(a) * * *

(1) * * *

(ii) If an immigration officer verifies that an alien subject to expedited removal under section 235(b)(1) of the Act has been admitted as a lawful permanent resident or refugee, or granted asylum, or, upon review pursuant to § 235.3(b)(5)(iv) of chapter I, an immigration judge determines that the alien was once so admitted or granted asylum, provided that such status has not been terminated by final administrative action, and DHS initiates removal proceedings against the alien under section 240 of the Act.

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(2) * * *

(i) If an asylum officer determines that an alien does not have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, and the alien requests a review of that determination by an immigration judge; or

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(iii) If an immigration officer refers an applicant in accordance with the provisions of § 208.30 or § 208.31.

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(c) The provisions of part 1235 are separate and severable from one another. In the event that any provision in part 1235 is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

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2. At 85 FR 84198, Dec. 23, 2020, §1235.6 was amended by revising paragraph (a)(2)(i), effective Jan. 22, 2021. For the convenience of the user, the revised text is set forth as follows:

§ 1235.6 Referral to immigration judge.

(a) * * *

(2) * * *

(i) If an asylum officer determines that an alien does not have a credible fear of persecution, reasonable possibility of persecution, reasonable possibility of torture, or has not established that he or she is more likely than not to be tortured in the prospective country of removal, and the alien requests a review of that determination by an immigration judge; or

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§ 1235.8 Inadmissibility on security and related grounds.

(a) *Report.* When an immigration officer or an immigration judge suspects that an arriving alien appears to be inadmissible under section 212(a)(3)(A) (other than clause (ii)), (B), or (C) of the Act, the immigration officer or immigration judge shall order the alien removed and report the action promptly to the district director who has administrative jurisdiction over the place where the alien has arrived or where the hearing is being held. The immigration officer shall, if possible, take a brief sworn question-and-answer statement from the alien, and the alien shall be notified by personal service of Form I-147, Notice of Temporary Inadmissibility, of the action taken and the right to submit a written statement and additional information for consideration by the Attorney General. The district director shall forward the report to the regional director for further action as provided in paragraph (b) of this section.

(b) *Action by regional director.* (1) In accordance with section 235(c)(2)(B) of the Act, the regional director may deny any further inquiry or hearing by an immigration judge and order the alien removed by personal service of Form I-148, Notice of Permanent Inadmissibility, or issue any other order disposing of the case that the regional director considers appropriate.

(2) If the regional director concludes that the case does not meet the criteria contained in section 235(c)(2)(B)

of the Act, the regional director may direct that:

(i) An immigration officer shall conduct a further examination of the alien, concerning the alien's admissibility; or,

(ii) The alien's case be referred to an immigration judge for a hearing, or for the continuation of any prior hearing.

(3) The regional director's decision shall be in writing and shall be signed by the regional director. Unless the written decision contains confidential information, the disclosure of which would be prejudicial to the public interest, safety, or security of the United States, the written decision shall be served on the alien. If the written decision contains such confidential information, the alien shall be served with a separate written order showing the disposition of the case, but with the confidential information deleted.

(4) The Service shall not execute a removal order under this section under circumstances that violate section 241(b)(3) of the Act or Article 3 of the Convention Against Torture. The provisions of part 1208 of this chapter relating to consideration or review by an immigration judge, the Board of Immigration Appeals, or an asylum officer shall not apply.

(c) *Finality of decision.* The regional director's decision under this section is final when it is served upon the alien in accordance with paragraph (b)(3) of this section. There is no administrative appeal from the regional director's decision.

(d) *Hearing by immigration judge.* If the regional director directs that an alien subject to removal under this section be given a hearing or further hearing before an immigration judge, the hearing and all further proceedings in the matter shall be conducted in accordance with the provisions of section 240 of the Act and other applicable sections of the Act to the same extent as though the alien had been referred to an immigration judge by the examining immigration officer. In a case where the immigration judge ordered the alien removed pursuant to paragraph (a) of this section, the Service shall refer the case back to the immigration judge and proceedings shall be automatically reopened upon receipt of

the notice of referral. If confidential information, not previously considered in the matter, is presented supporting the inadmissibility of the alien under section 212(a)(3)(A) (other than clause (ii)), (B) or (C) of the Act, the disclosure of which, in the discretion of the immigration judge, may be prejudicial to the public interest, safety, or security, the immigration judge may again order the alien removed under the authority of section 235(c) of the Act and further action shall be taken as provided in this section.

(e) *Nonapplicability.* The provisions of this section shall apply only to arriving aliens, as defined in §1001.1(q) of this chapter. Aliens present in the United States who have not been admitted or paroled may be subject to proceedings under Title V of the Act.

[62 FR 10358, Mar. 6, 1997, as amended at 64 FR 8494, Feb. 19, 1999]

§ 1235.9 Northern Marianas identification card.

During the two-year period that ended July 1, 1990, the Service issued Northern Marianas Identification Cards to aliens who acquired United States citizenship when the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States entered into force on November 3, 1986. These cards remain valid as evidence of United States citizenship. Although the Service no longer issues these cards, a United States citizen to whom a card was issued may file Form I-777, Application for Issuance or Replacement of Northern Marianas Card, to obtain replacement of a lost, stolen, or mutilated Northern Marianas Identification Card.

[62 FR 10359, Mar. 6, 1997]

§ 1235.10 U.S. Citizen Identification Card.

(a) *General.* Form I-197, U.S. Citizen Identification Card, is no longer issued by the Service but valid existing cards will continue to be acceptable documentation of U.S. citizenship. Possession of the identification card is not mandatory for any purpose. A U.S. Citizen Identification Card remains the property of the United States. Because